



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,616	03/18/2004	Jonathan Barsade	BAR-6	5894
24039	7590	09/13/2010	EXAMINER	
INNOVAR, LLC P O BOX 250647 PLANO, TX 75025			ERB, NATHAN	
			ART UNIT	PAPER NUMBER
			3628	
			MAIL DATE	DELIVERY MODE
			09/13/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/803,616

**Applicant(s)**

BARSADE ET AL.

**Examiner**

NATHAN ERB

**Art Unit**

3628

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 31 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1,5 and 7-24

Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628

NATHAN ERB  
Examiner  
Art Unit: 3628

Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejection of claim 16 under 35 U.S.C. 112, second paragraph, due to conditional language.

Continuation of 11. does NOT place the application in condition for allowance because: The rejections of the claims under 35 U.S.C. 112, second paragraph, due to confusion over the format of claim 1 matching that of a system or a software claim remain. Although Applicant has re-ordered the wording of claim 1, the explanation provided by Examiner on pp. 2-3 of the Final Office action dated 6-8-2010 still applies.

Applicant's amendments are basically a re-wording of the previous version of the claims. Therefore, the claims would remain rejected under 35 U.S.C. 103 for similar reasons as previously.

Applicant has provided extensive arguments regarding the prior art rejections. Examiner does not find such arguments to be persuasive. For example:

1. Applicant has argued based on embodiments different than embodiment(s) relied upon by Examiner for the rejections. Therefore, such arguments are not relevant. As an example, arguing that the tax system and the third-party service provider in Agee can be the same party in some embodiments of Agee is not persuasive where Examiner has relied upon embodiments of Agee where the tax system and the third-party service provider are separate parties.
2. Setting forth additional possible functions of the third-party service provider in Agee is not definitive in establishing that the third-party service provider cannot be considered as a gateway in the embodiment(s) relied upon by the Examiner for the prior art rejections. There is no indication that the definition of "gateway" specifically excludes systems which also perform additional particular functions.
3. Applicant has provided its own set of definitions for a "gateway." These definitions appear to be narrower than Examiner's definition established in previous Office action(s). Since Examiner must take the broadest reasonable interpretation of claim language, where definitions conflict, Examiner will use the broader definition of gateway, which appears to be Examiner's previously established definition. If a narrower interpretation of gateway is desired by Applicant, Examiner suggests amending the claim language to explicitly incorporate the features of such narrower definitions (assuming proper support in the Applicant's application-as-filed).